

MONTANA LEGISLATIVE HISTORY

Chapter 213 19 78

Bill H _____ S 334

Original bill & history ✓ C

H. Committee on Local Gov

Hearing Date(s) 3/6 ✓ C

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_____ C

Date Out _____ C

S. Committee on Local Gov

Hearing Date(s) 2/7 ✓ C

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_____ C

Did this bill originate in an interim committee? _____ Yes ✓ No

Committee _____

Report _____

HOUSE AND SENATE BILLS

xi

Chap. Num.	Senate Bill	House Bill	Title
			pay fees; providing that unpaid fees, penalties, and interest are a lien on the real property of the regulated company.....Page 462
196		739	An act to generally revise The Montana Strip and Underground Mine Reclamation Act; amending sections 82-4-222, 82-4-226, 82-4-234, 82-4-235, and 82-4-237, MCA. Page 463
197	61		An act to insure the availability of basic levels of benefits under health insurance policies and contracts for the care and treatment of alcoholism and drug addiction. Page 468
198	101		An act to generally revise and clarify the laws relating to insurance and insurance companies; and repealing section 40-1723, R.C.M. 1947. Page 470
199	104		An act to give express rulemaking authority for certain programs to the Department of Social and Rehabilitation Services; amending sections 53-2-201, 53-3-102, 53-5-304, and 53-7-302, MCA.....Page 491
200	109		An act to clarify the relationship between the Department of Health and Environmental Sciences and local boards of health with respect to the validation by local health officers of certain licenses issued by the Department of Health and Environmental Sciences and to limit certain supervisory functions of the department; amending sections 50-1-202, 50-2-118, 50-50-201, 50-51-201, and 50-52-201, MCA; and repealing section 50-2-102, MCA.....Page 493
201	118		An act to generally revise and clarify the laws relating to minerals, oil, and gas; amending sections 82-1-108, 82-4-142, 82-4-252, 82-4-304, 82-4-332, 82-10-201, 82-11-131, and 82-15-202, MCA.....Page 497
202	120		An act to generally revise the laws relating to corporations and partnerships; repealing sections 35-10-507 and 35-16-316, MCA.....Page 500
203	165		An act to increase the provision setting a maximum value on vehicles for which title may be issued by right of survivorship; amending section 61-3-201, MCA.....Page 507
204	189		An act authorizing the Superintendent of Public Instruction to contract with local school districts or service organizations for the delivery of audiological services to those children allowed by law; amending section 20-7-403, MCA.....Page 509
205	193		An act to require postsecondary vocational-technical centers to expend nongeneral fund money first and to revert unexpended general fund balances at fiscal year end; amending section 20-7-325, MCA.....Page 510
206	196		An act amending section 15-24-1001, MCA, to require a custom combiner's fee for Montana resident custom combiners similar to the fee paid by nonresidents and in lieu of fees presently required.....Page 511
207	204		An act to amend section 46-9-103, MCA, to provide that there is a rebuttable presumption that a defendant convicted of deliberate homicide is a danger to others and not entitled to bail.....Page 512
208	264		An act to authorize the county governing body authority to control and license dogs through adoption of an ordinance; repealing sections 7-23-2101 through 7-23-2107 and 7-23-2111 through 7-23-2117, MCA.....Page 512
209	281		An act to amend section 61-8-301, MCA, to clarify the requirement that the offense of fleeing or eluding a police officer must include the actions required for the conviction of reckless driving.....Page 513
210	287		An act to reduce government paperwork by requiring all state agencies to review forms required of citizens and report progress to the administrative code committee. Page 514
211	310		An act to repeal section 7-14-2104, MCA, and Chapter 45, Laws of 1923, relating to sovereign immunity of local governments.....Page 515
212	332		An act to generally revise and clarify the local government laws relating to debt management and to permit the Board of Natural Resources and Conservation to issue refunding revenue bonds.....Page 515
213	334		An act to amend the local government laws relating to rural fire districts, hospital districts, and cemetery districts to delete taxpayer and freeholder requirements to vote in certain elections and to hold certain offices; amending sections 7-33-2106, 7-34-2113, 7-35-2108, and 7-35-2133, MCA.....Page 520
214	344		An act to abolish the reporting requirements of the State Treasurer to the Department of State Lands; repealing section 77-1-508, MCA.....Page 522

SENATE BILL NO. 334
 INTRODUCED BY D. H. Farn
 BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE LOCAL GOVERNMENT LAWS RELATING TO RURAL FIRE DISTRICTS, HOSPITAL DISTRICTS, AND CEMETERY DISTRICTS TO DELETE TAXPAYER AND FREEHOLDER REQUIREMENTS TO VOTE IN CERTAIN ELECTIONS AND TO HOLD CERTAIN OFFICES; AMENDING SECTIONS 7-33-2106, 7-34-2113, 7-35-2108, AND 7-35-2133, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-33-2106, MCA, is amended to read:

"7-33-2106. Details relating to board of trustees of fire district. (1) The five trustees initially appointed by the county commissioners shall hold office until their successors are elected and qualified as hereinafter provided.

(2) Qualifications of electors and trustees, terms of office, vacancies, and manner and date of elections shall, as far as possible, be the same as provided in the school election laws for school districts of the second class, except:

(a) that only ~~electors who are taxpayers affected by the special fire district levies may vote at such elections~~

~~and be qualified to serve as trustees and~~

(b) there need be no special registration of electors.

(3) The trustees shall organize by choosing a chairman and appointing one member to act as secretary."

Section 2. Section 7-34-2113, MCA, is amended to read:

"7-34-2113. Who may vote. (1) Only qualified registered electors residing within the proposed hospital district ~~who are taxpayers upon property therein and whose names appear on the last completed assessment roll for state and county taxes shall have the right to~~ may vote on the question of the creation of the hospital district.

(2) ~~No person shall be qualified to vote at such election who has not attained legal age, who is not an owner of property within the boundaries of said district as defined by the board of county commissioners, and whose name does not appear on the last completed assessment roll of the county."~~

Section 3. Section 7-35-2108, MCA, is amended to read:

"7-35-2108. Government of district by trustees. (1) ~~Said~~ ~~the~~ cemetery district shall be governed and managed by three trustees appointed by the board of county commissioners. The trustees at their first meeting shall adopt bylaws for the government and management of the district.

(2) The trustees may be appointed from the freeholders

1 ~~residing within said~~ residents of the district for terms of
 2 1, 2, and 3 years, respectively, and until their successors
 3 ~~shall be~~ are appointed and qualified. Annually thereafter
 4 the board of county commissioners shall appoint one trustee
 5 for a term of 3 years or until his successor ~~shall be~~ is
 6 appointed and qualified.

7 (3) Per diem and mileage of ~~such the~~ cemetery trustees
 8 may be set by resolution of the board of county
 9 commissioners."

10 Section 4. Section 7-35-2133, MCA, is amended to read:

11 "7-35-2133. Appointment of trustees of fund. (1) The
 12 ~~district judge of such court~~ shall, upon receipt of the
 13 application, appoint a trustee or a board of trustees to
 14 ~~administer the fund~~ from a list submitted to him, by the
 15 trustees of ~~such the~~ public cemetery district.

16 (2) ~~Such trustee or such board shall consist of not~~
 17 ~~less than one or more than~~ The number of trustees for the
 18 fund may not exceed five persons, with the exact number to
 19 ~~rest in be set at~~ the discretion of the trustees of ~~said the~~
 20 public cemetery district. ~~Such Each~~ trustee or ~~the members~~
 21 ~~of such board of trustees of such funds for the fund~~ must be
 22 ~~citizens and freeholders~~ a resident of the state of Montana
 23 during ~~all the time they exercise~~ he exercises the powers of
 24 such trust.

25 (3) ~~In case of the failure of any of those~~ Whenever a

1 ~~persons~~ so chosen and appointed, fails to qualify within 30
 2 days after their his appointment, then a vacancy ~~shall exist~~
 3 ~~exists~~, and the judge of ~~said the~~ district court shall
 4 forthwith appoint from a list submitted to him by the
 5 trustees of ~~such the~~ public cemetery district some person
 6 possessing the above qualifications to fill the vacancy or
 7 vacancies in ~~said the~~ board of trustees of ~~such the~~ fund.
 8 Trustees of ~~such the~~ fund heretofore appointed by ~~such the~~
 9 public cemetery district or district court ~~shall prior to~~
 10 July 1, 1955, continue to hold their office as such trustees
 11 until terminated ~~in one of the manners~~ as provided in
 12 7-35-2131 through 7-35-2150."

-End-

46 th

LEGISLATIVE SESSION

COMMITTEE ON LOCAL GOVERNMENT -- SENATE BILLS

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
SB 306	1-31	2-7;2-10	2-10	2-10					
SB 307	1-31	2-7	2-7	2-7					
SB 308	1-31	2-7	2-7	2-7					
SB 310	1-31	2-7	2-7	2-7					
SB 314	2-2	2-7;2-10	2-10			2-10			
SB 330	2-1	2-8;2-10	2-10			2-10			
SB 332	2-2	2-7	2-7	2-7					
SB 333	2-2	2-7	2-7	2-7					
SB 334	2-2	2-7	2-7	2-7					
SB 335	2-2	2-7	2-7	2-7					
SB 336	2-2	2-7	2-7			2-7			
SB 337	2-2	2-7;2-10	2-10	2-10					
SB 338	2-2	2-7	2-7	2-7					
SB 339	2-2	2-7	2-7	2-7					
SB 340	2-2	2-7;2-10	2-10			2-10			
SB 350	2-3	2-7;2-10	2-10	2-10					
SB 352	2-3	2-13;2-15	2-15			2-15			

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 7, 1979

The meeting of the Local Government Committee was called to order by Chairman, George McCallum on February 7, 1979 at 7:00 p.m. in Room 405 of the State Capitol Building.

ROLL CALL: All members were present.

Dennis Taylor, Staff Researcher, was also present.

A very few visitors were in attendance, but did not testify. (See attachment.)

Larry Weinburger, Staff Attorney, lead the discussion on the Code Commissioner Bills as he is the one who worked on the bills. Mr. Weinburger stated that much of the legislation concerning these bills dates back to the 1880's and some of the language needed to be changed to fit the more recent legislation. Land holder and freeholder requirements have been stricken down by the codes. Mr. Weinburger stated that in reviewing the codes he decided on some things because he felt they would stand up better in court, if ever put to the test.

CONSIDERATION OF SENATE BILL 334: Senator Jesse O'Hara, of Senate District 18, is sponsor of Senate Bill 334. This bill is an act to amend local government laws relating to rural fire districts, hospital districts, and cemetery districts to delete taxpayer and freeholder requirements to vote in certain elections and to hold certain offices. Senate Bill 334 is designed to bring to the legislature's attention several problems related to taxpayer and freeholder requirements concerning certain activities related to fire districts, hospital districts and cemetery districts. Supreme court decisions by the Montana and United States Supreme Courts have called into question the constitutional validity of taxpayer and/or freeholder requirements for voting and holding office in areas which are of a general governmental nature.

CONSIDERATION OF SENATE BILL 336: Senator Pete Story, of Senate District 37, is the sponsor of the bill. This bill is an act to generally revise and clarify the local government laws relating to general provisions and to the creation, alteration, and abandonment of local governments. For the most part, this bill only had a few small things that needed to be changed.

CONSIDERATION OF SENATE BILL 333: Senator Robert D. Watt, OF Senate District 49, is the sponsor of this bill. Senate Bill 333 is an act to generally revise and clarify the local government laws relating to alternative forms of local government.

and freeholder requirements are deleted on various elections concerning financing of local government services.

CONSIDERATION OF SENATE BILL 314: Senator Max Conover, of Senate District 36, is the sponsor of Senate Bill 314. This bill is an act to generally revise and clarify the local government laws relating to business, agriculture, and livestock regulation and to weed and pest control. In Sections 8 and 11, participation in certain activities is extended to residents and the public. The Committee felt that weed boards deal with a problem that principally burdens the landowner and that the term "landowner", therefore, should be left in the bill.

CONSIDERATION OF SENATE BILL 338: Senator Bob Peterson, of Senate District 42, is the sponsor of Senate Bill 338. This bill is an act to generally revise and clarify the local government laws relating to general emergency and protective services, to law enforcement, to fire protection, and to cemetery services. The term "8th class counties" was eliminated. There are no longer any 8th class counties.

DISPOSITION OF SENATE BILL 307: A motion was made by Senator Thomas that Senate Bill 307 receive a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 332: A motion was made by Senator Watt that Senate Bill 332 receive a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 339: A motion was made by Senator Rasmussen that Senate Bill 339 be given a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 310: A motion was made by Senator Watt that Senate Bill 310 be given a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 305: A motion was made by Senator Watt that Senate Bill 305 receive a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 335: A motion was made by Senator Peterson that Senate Bill 335 be given a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 308: A motion was made by Senator Rasmussen that Senate Bill 308 receive a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 334: A motion was made by Senator Watt that Senate Bill 334 be given a "DO PASS" recommendation from the Committee. Motion carried.

STANDING COMMITTEE REPORT

.....February 2..... 19 79.....

MR. President:.....

We, your committee on Local Government.....

having had under consideration Senate..... Bill No. 334.....

Respectfully report as follows: That.....Senate..... Bill No. 334.....

DO PASS



LOCAL GOVERNMENT COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 333	To clarify alternative forms of local government	2/14/79	WATT	Tuesday March 6	CONCURRED IN	3/6/79
SB 334	Allow on rural fire, hospital, cemetery districts to remove freeholder requirements on voting	2/14/79	O'HARA	Thursday March 6 12:30 pm	CONCURRED IN	3/6/79
SB 335	Generally revise laws relating to local government officers	2/15/79	LOCKREM	Thursday March 6	AS AMENDED CONCURRED IN	3/6/79
SB 336	Clarify general provisions on creating, altering, or abandoning local gov't	2/14/79	STORY	Thursday March 6	CONCURRED IN	3/6/79
SB 338	Clarify emergency, law enforcement, fire and cemetery laws	2/14/79	PETERSON	Thursday March 6	CONCURRED IN	3/6/79
SB 339	Clarify re: financial, administration and taxation	2/14/79	RASMUSSEN	Thursday March 6	CONCURRED IN	3/6/79

MARCH 6, 1979
PROCEEDINGS OF THE
HOUSE OF REPRESENTATIVES
LOCAL GOVERNMENT COMMITTEE

The meeting was called to order at 12:30 p.m. by Chairman Hershel Robbins. The secretary called roll and found a majority of members present. Those absent were Representatives Sales, Gould, South, Kessler and Moore.

Chairman Robbins then announced that the committee would hear 16 bills at this meeting. These were considered as recodification bills. He then stated that they would be introduced by Larry Wineberg. However, a member of the committee would have to introduce each bill and carry them on the House floor. The Senators sponsoring the bills had not been asked to be present.

Chairman Robbins then introduced Larry Wineberg. Mr. Wineberg stated the bills had been worked on for several years and at least six months work had gone into the recodification. He stated except for the first bill they go through title VII in the code. In general there were some word changes, such as "treasurer" to "treasury" in eighth class counties. There were also some changes on recall petitions, and he explained many of the laws date back to 1895 and 1900, and commissioners were having problems with enforcement of some of these old laws.

SENATE BILL 334: Senate Bill 334 was introduced by Representative Orren Vinger, District 3. He then called on Larry Wineberg to explain the bill. Mr. Wineberg explained that this law would delete the freeholder requirements for district elections, petitions, and various areas that had required freeholders voting in elections due to the Supreme Court decisions. He stated this would also apply to GO bonds and revenue bonds. He stated that there was one area where this would not apply; this would be irrigation districts because these are charged on the amount of land a person owns and because of this charge, irrigation districts would remain that only landowners could vote in the election. He then further explained regarding page 1, section 3, relating to hospital districts. He explained that in hospital districts the services were available to everyone not just property owners. This was the reason for deletion of the freeholder requirement. It was also explained that there couldn't be freeholder elections in a cemetery district.

Senator Story then stated he would introduce all of the remaining bills, as a representative of the Senate Local Government Committee. The House Local Government Committee could then hear the bills as time permitted. A list of the bills is as follows, as were introduced by Senator Story:

Senate Bill 334 (continued)

Senate Bill 334, sponsored by Senator O'Hara, deleting freeholder requirements in fire, hospital and cemetery districts:

Senate Bill 336, introduced by Senator Story, creating alternate forms of government:

Senate Bill 333, introduced by Senator Watt, also relating to alternative forms of local government:

Senate Bill 308, introduced by Senator Rasmussen, relating to city-county consolidation:

Senate Bill 335, introduced by Senator Lockrem, dealing with local government officers:

Senate Bill 305, introduced by Senator Watt, regarding conduct of business of local officers:

Senate Bill 310, introduced by Senator Story, regarding sovereign immunity of local governments:

Senate Bill 339, introduced by Senator Rasmussen, relating to financial administration and taxation in local governments:

Senate Bill 332, introduced by Senator Watt, dealing with debt management of local governments:

Senate Bill 350, introduced by Senator McCallum, dealing with forms of GO bonds and sinking funds:

Senate Bill 306, introduced by Senator McCallum, relating to percentage limits of indebtedness of local governments:

Senate Bill 307, introduced by Senator O'Hara, dealing with GO bond review:

Senate Bill 337, introduced by Senator Conover, regarding improvement districts:

Senate Bill 340, introduced by Senator Thomas, regarding transportation, construction, culture and social services departments of local governments:

Senate Bill 314, introduced by Senator Conover, relating to business, agriculture, livestock, weed and pest control districts:

Senate Bill 338, introduced by Senator Peterson, relating to emergency law enforcement and fire districts.

SENATE BILL NO. 234
INTRODUCED BY McCALLUM

A BILL FOR AN ACT ENTITLED: "AN ACT TO PERMIT THE GOVERNING BODY OF A COUNTY TO EXCEED EXISTING MILL LEVY LIMITS IF A MAJORITY VOTING ON THE QUESTION ARE IN FAVOR OF THE ADDITIONAL LEVY OR LEVIES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. County may exceed maximum mill levy -- election required. The governing body of a county may raise money by taxation for the support of county government services, facilities, or other capital projects in excess of the levy or levies allowed by law under the following conditions:

(1) The governing body must pass a resolution indicating its intent to exceed the current statutory mill levy on the approval of a majority of the qualified electors voting in an election under subsection (2). The resolution must include:

- (a) the specific purpose for which the additional money will be used;
- (b) the specific amount to be raised; and
- (c) the approximate number of mills required; AND
- (d) THE SPECIFIC MILL LEVY LIMITATION TO BE EXCEEDED.

(2) The governing body must submit the question of the additional mill levy to the qualified electors of the county at a THE NEXT regular GENERAL PRIMARY election HELD IN THE EVEN-NUMBERED YEARS ~~or a special election called for that purpose by the governing body.~~ If the majority voting on the question are in favor of the additional levy or levies, the governing body is authorized to exceed the statutory mill levy limit in the amount specified in the resolution FOR A PERIOD NOT TO EXCEED 2 YEARS.

Section 2. Purpose of additional mill levy to be stated. The submission of the question shall expressly state the purpose for which the additional levy is to be made.

Section 3. Notice of election on question of additional mill levy. Whenever the question of making an additional mill levy is submitted to the qualified electors, notice shall be given ~~by publication for at least 30 days prior to the election in a newspaper of general circulation in the county and by posting notice for the same period in a public place in each county commissioner district within the county~~ IN THE MANNER PRESCRIBED BY LAW FOR NOTICING OF ELECTIONS.

Section 4. Form of ballot. (1) If at any time it is desired to submit the question of additional levies for more than one purpose, such propositions shall be submitted on separate ballots.

1 LAWs

-End-

1 (2) Each of the ballots shall be in substantially the
2 following form:

3 Shall the county governing body be authorized to make a
4 levy of (here insert the number) mills taxes in addition to
5 the regular levy now authorized by law for the purpose of
6 (here insert the purpose for which the additional levy is to
7 be made AND THE PERIOD FOR WHICH IT SHALL BE IN EFFECT)?

8 ☐ FOR additional levy

9 ☐ AGAINST additional levy

10 Section 5. Conduct of election. (1) The electors shall
11 mark the ballot or ballots in the same manner as other
12 ballots are marked under the election laws of this state.

13 (2) The election shall be held and the votes canvassed
14 and returned as in other county elections as provided in
15 Title 13.

16 Section 6. Use of proceeds from additional mill levy.

17 (1) Except as provided in subsection (1), if authorized, the
18 money raised by the additional levy shall be used only for
19 that specific purpose provided for in [section 2].

20 (2) If any balance remains on hand after the purpose
21 for which the levy was made has been accomplished, the
22 balance may by vote of the governing body be transferred to
23 any other fund of the county.

24 SECTION 7. EMERGENCY PROVISIONS IN EFFECT. NOTHING IN
25 [THIS ACT] SHALL AFFECT THE EMERGENCY LEVY AS PROVIDED BY

STATE OF MONTANA

REQUEST NO. 169-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 29, 19 79, there is hereby submitted a Fiscal Note for SB 234 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF LEGISLATION:

Senate Bill 234 permits the governing body of a county to exceed statutory mill levy limits if a majority voting on the question are in favor.

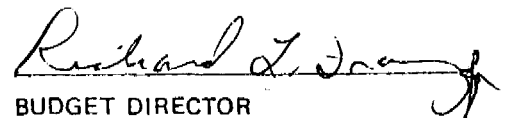
ASSUMPTIONS:

1. Of the 39 counties currently budgeting at the maximum statutory levies for their General, Road, and/or Poor funds, all will hold elections in 1979 to seek voter approval for an additional 10% spending authority in each fund.
2. Of the 41 counties currently budgeting at the maximum statutory levies for their bridge funds, 75% of such counties will hold elections in 1979 to seek voter approval for an additional 10% spending authority.
3. Of the elections held under 1 and 2 above, 75% will approve additional spending authority.
4. Taxable valuations will remain constant statewide over the biennium.

LOCAL IMPACT:

County Property Tax Revenue, Various Funds:

Under Current Law	1980 \$ 15,107,913	1981 \$ 15,107,913
Under Proposed Law	16,618,704	16,618,704
Increased revenues under proposed law	\$ 1,510,791	\$ 1,510,791


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/2/79